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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 33692.03.3156
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>March 6, 2006</u></p> <p>Signature <u>Christine Wright</u></p> <p>Typed or printed <u>Christine A. Wright</u> name _____</p>		<p>Application Number 10/692,622</p> <p>Filed October 24, 2003</p> <p>First Named Inventor Jerome O. Vogedes</p> <p>Art Unit 2686</p> <p>Examiner Suhail Khan</p>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>34,414</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		
<p><u>Christopher J. Reckamp</u> Signature</p> <p><u>Christopher J. Reckamp</u> Typed or printed name</p> <p><u>312-609-7599</u> Telephone number</p> <p><u>March 6, 2006</u> Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>		
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>		

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jerome O. Vogedes, et al.
Serial No. 10/692,622
Filing Date: October 24, 2003

Examiner: Suhail Khan
Art Group: 2686
Docket No.: 33692.03.3156

Title: **METHOD AND APPARATUS FOR SENDER CONTROLLABLE MODALITIES**

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Christine A. Wright
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REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Claims 1-5, 7-9, 11-14, 16-21 and 23-24 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Deeds (U.S. Patent Application No. 2004/0198471). Applicants respectfully submit that the Examiner's rejection includes clear errors because at least one or more limitations are not met by the cited Deeds reference.

For example, Applicants' claim 1 is directed to a sender device which includes structure that generates and sends a priority command that includes a modality alert command and a communication command; as well as a transmitter coupled to transmit the priority command and the communication command to a recipient device wherein the recipient device may receive the modality alert command within the priority command. Among other advantages, the structure of claim 1 allows a sender to control by what means a recipient will be notified by a recipient device. Deeds teaches a different apparatus and method. The cited portion of Deeds (paragraph 42) not only refers to a receiving device (the mobile station that receives messages) – and not a sender device – but also does not contain the claimed subject matter as alleged.

Deeds is directed to a terminal device such as a mobile phone that outputs a ring tone according to a predetermined mnemonic code, such as Morse code. In Deeds, a user may program a ring tone so that a ring tone spells out a text output in Morse code, such as a received text message or a name that is associated with a sender of an incoming call (see paragraph 42). The office action cites paragraph 42 as allegedly teaching a controller that generates the priority command that includes the modality alert command because a “user is able to prioritize events based on ring tones; ring tones are interpreted as being modality alert commands” (see Office Action page 2 and Advisory Action). This statement fails to take into account actual claim language and fails to correlate the claimed structure to any corresponding structure in Deeds.

The cited paragraph 42 states in part, “By so programming the ring tone, the user can identify events, such as incoming calls, on a user’s mobile station as well as distinguish events on the user’s mobile station from those on other mobile stations nearby.” As such, a user of a receiving device may program the device so that the device outputs ring tones that audibly spell out a text output such as in the form of a Morse code. The sender in Deeds has no control of the modality of the receiving unit, (see e.g. cited portions of Deeds) and there is no structure identified in the cited portion that is operable to, among other things, generate and send “a priority command that includes a modality alert command” as claimed.

Page 5, column 42 of Deeds is not referring to a sender unit and an apparatus for sender controllable modalities that includes a priority command generator capable of generating a priority command that with a modality alert command and, among other things, a transmitter operatively coupled to the priority command generator and a communication command generator such that the priority command and the communication command are transmitted to a recipient device, wherein the recipient device may receive the modality alert command within the priority command. A user is not a sending device and the ring tone does not include any of the claimed commands nor is the

ring tone transmitted by the mobile device. Also, the office action identifies no sender unit that corresponds to the claimed apparatus.

As to claim 5, this claim requires, among other things, a receiver that receives a communication command and a priority command from a sender device. The office action cites page 3, paragraph 30 of the Deeds reference. However, this portion is silent as to any communication command and a priority command as claimed. Accordingly, the claim is in condition for allowance.

In addition, the claim requires, among other things, a verification module, coupled to the receiver, that verifies the sender device and the priority command such that a modality alert command is provided to a notification system to override the internal modality setting. The claim also requires that the modality alert command is disposed within the notification command. The office action cites paragraphs 40 and 42 as teaching this claimed verification module. However, Applicants respectfully submit that the cited paragraph merely describes that an incoming call activates a call alert that includes, for example, a caller ID information and/or the caller operating the calling device. An event indicator is also activated. However, there is no modality alert command nor a priority command as claimed nor any overriding of an internal modality setting as claimed. Accordingly, this claim is also in condition for allowance. If the rejection is maintained, Applicants respectfully request a showing by page and line number of this claimed subject matter as it does not appear to be in the cited reference.

The dependent claims add additional novel and non-obvious subject matter.

As to claim 9, Applicants respectfully reassert the relevant remarks made above with respect to claim 1 and as such, this claim is also in condition for allowance.

The dependent claims also add additional novel and non-obvious subject matter.

As to claim 14, Applicants respectfully reassert the relevant remarks made above with respect to claim 5. Accordingly, this claim is also believed to be in condition for allowance.

The dependent claims add additional novel and non-obvious subject matter.

As to claim 20, Applicants respectfully reassert the relevant remarks made above with respect to the independent claims and as such, this claim is also in condition for allowance.

The dependent claims add additional novel and non-obvious subject matter.

Claims 6, 10, 15 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Deeds in view of U.S. Patent No. 6,867,733 (Sandhu et al.). Applicants respectfully reassert the relevant remarks made above with respect to the Deeds application and as such, these claims are also in condition for allowance. For example, as noted above, there is no received priority command from the sender device described in paragraph 42 of the Deeds reference as this paragraph describes that a user is able to determine by using the user's ears, for example, whether an incoming call is coming from a particular person or if a text message is being communicated via an audible ring tone. There is no priority command being sent by a sending device. As such, the claim is in condition for allowance. In addition, the Sandhu reference also fails to teach the use of the combination of the commands and as such, the combination of the references do not, alone or in combination, teach the claimed subject matter. As such, these claims are also in condition for allowance.

As to claims 10 and 15, Applicants respectfully reassert the remarks made above with respect to the Deeds reference and as such, these claims are also in condition for allowance.

Accordingly, Applicants respectfully submit that the Examiner has made clear errors and that the claims are in condition for allowance and that a timely Notice of Allowance should be issued in this case.

Respectfully submitted,

Dated: 3/6/06

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